

§ 888.315

proportionate share of the payment for which each is eligible.

(Approved by the Office of Management and Budget under control number 2502-0042)

§888.315 Restrictions on retroactive payments.

(a) *Restrictions on distribution of surplus cash.* Retroactive payments for HUD-insured projects and other projects subject to limitations on the distribution of surplus cash will be deposited, in the manner of Housing Assistance Payments, into the appropriate project account. The payments will be subject to HUD rules and procedures (or rules and procedures of other agencies, as appropriate), described in the applicable regulations and the HAP contracts, for distribution of surplus cash to project owners.

(b) *Replacement reserve.* Projects required by HUD regulations to maintain a reserve for replacement account and to adjust the annual payment to the account each year by the amount of the annual rent adjustment must deposit into the account the proportionate share of any retroactive payment received, in accordance with HUD regulations and the HAP contract.

(c) *Physical condition of HUD-insured or State-financed projects.* If the most recent physical inspection report of a HUD-insured project, completed by the mortgagee, or by HUD or the Contract Administrator if a mortgagee inspection is not present, shows significant deficiencies that have not been addressed to the satisfaction of HUD by the date the retroactive payment is deposited into the project account, the payment will not be made available for surplus cash distribution until the deficiencies are resolved or a plan for their resolution has been approved by HUD.

§888.320 One-time Contract Rent determination.

(a) *Determining the amount of the new Contract Rent.* Project owners eligible for retroactive payments, as described in §888.301(c), may request a one-time Contract Rent determination, to be effective as described in paragraph (c) of this section. The request for a one-time rent determination must be made when submitting a request for retroactive payments, as described in §888.315. If no

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claim for retroactive payments is made, an owner may submit only the request for a one-time rent determination, provided the owner is eligible for retroactive payments. The new Contract Rent under this provision will be the greater of:

(1) The Contract Rent currently approved by HUD (or the Contract Administrator); or

(2) An amount equal to the applicable AAF multiplied by the Contract Rent minus debt service, calculated for each year from October 1, 1979, to May 31, 1991.

(b) *Currently approved rent.* The Contract Rent currently approved by HUD (or the Contract Administrator) is the Contract Rent stated in the most recent amendment to the HAP Contract signed by both HUD (or the Contract Administrator) and the owner, or as shown on HUD Form 92458 (Rental Schedule) if the most recent amendment to the HAP Contract cannot be located.

(c) *Effective date of new Contract Rent.* The new Contract Rent, determined under paragraph (a) of this section, will be effective on May 31, 1991.

(Approved by the Office of Management and Budget under control number 2505-0042)

Subpart D—Retroactive Housing Assistance Payments for Moderate Rehabilitation Projects

SOURCE: 56 FR 20085, May 1, 1991, unless otherwise noted.

§888.401 Purpose and scope.

(a) *Purpose.* This subpart describes the basic policies and procedures for the retroactive payment of Housing Assistance Payments to eligible project owners for the period from October 1, 1979 to May 31, 1991 and a one-time Contract Rent determination for such eligible project owners.

(b) *Applicability.* This subpart applies to all Moderate Rehabilitation projects under 24 CFR part 882, subparts D, E, and H.

(c) *Eligible project owners.* Project owners may be eligible for retroactive payments if, during the period from October 1, 1979 to May 31, 1991: